

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENNIS MARKER,

Plaintiff, CIVIL ACTION NO. 05-CV-72672-DT

vs.

DISTRICT JUDGE NANCY G. EDMUNDS

EDDIE JENKINS, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

/

**OPINION AND ORDER DENYING PLAINTIFF DENNIS MARKER'S MOTION TO
MODIFY SCHEDULING ORDER (DOCKET NO. 33)**

Plaintiff, who is currently a prisoner incarcerated in the State of Michigan, initiated this civil rights action pursuant to 42 U.S.C. § 1983. On June 5, 2006 he filed a motion to modify the scheduling order (docket no. 33) that the Court entered on May 9, 2006 (docket no. 30). Plaintiff asks that he be exempted from the pretrial conference requirement because he is a prisoner proceeding *pro se*. Defendants have not responded to the motion. All pre-trial matters have been referred to the undersigned by District Judge Nancy G. Edmunds. Plaintiff's motion is now before this Court for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A). The Court finds that the facts and legal arguments are adequately presented in the parties' papers and the decisional process would not be significantly aided by oral argument. Therefore, this motion will be resolved without oral argument pursuant to E.D. MICH. LR 7.1(e)(2).

The scheduling order entered by the Court did not set any dates for a final pretrial order to be submitted or for the final pretrial conference. The order shows that these dates are "to be determined." As Plaintiff notes, this Court's Local Rule 16.1(e)(1) exempts from the requirements

of Fed. R. Civ. P. 16(b), which pertains to scheduling final pretrial conferences among other events, actions in which one of the parties appears *pro se* and is incarcerated. Plaintiff mistakenly assumes that the Court's scheduling order anticipates that a date for a final pretrial conference will be set. Because no date for a final pretrial conference has been set in this case, Plaintiff's motion to modify the scheduling order to exempt him from having to attend such conference is premature.

IT IS THEREFORE ORDERED that Plaintiff's motion to modify the scheduling order (docket no. 33) be **DENIED**.

Notice to the Parties

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: September 13, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this Order was served upon Dennis Marker and Counsel of Record on this date.

Dated: September 13, 2006

s/ Lisa C. Bartlett
Courtroom Deputy